

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

IN THE MATTER OF THE	§	
COMPLAINT OF AET INC. LIMITED	§	
AS OWNER, AND AET	§	CIVIL ACTION NO. 1:10CV0051
SHIPMANAGEMENT (SINGAPORE)	§	
PTE. LTD AS MANAGER, OF THE	§	ADMIRALTY RULE 9(h)
M/V EAGLE OTOME, FOR	§	
EXONERATION FROM OR	§	
LIMITATION OF LIABILITY	§	

JOINT RE-URGED MOTION

FOR SCHEDULING CONFERENCE

KIRBY INLAND MARINE, L.P., (Kirby) as owner of the M/V DIXIE VENGEANCE, Kirby 28112 and Kirby 38406 CLAIMANT and PETITIONER, joined by Bobby Frank, Bonetta Faye Frank, Courtney Charles, Der' Nesha Graham, Drucella Charles, Edward Frank, Gloria Frank, Jermaine Jacobson, Joshua Charles, Katrina M. Frank, Lena R. Johnson, Maia Antoine, Marolean Levine, Patrick Charles, Quiona Levine, Rosetta Lewis, Warolean Levine, Amarriea Flanagan, Amarion Gauthier, Jacorey Mitchell, Kiristen Ardoin, Kyron Eaglin, Erian Grahman, Da'Vonte Jackson, Riyad Antoine, Makayla Williams, Kyran Eaglin, and A'riyah Acrond, CLAIMANTS file this Re-urged Motion For Scheduling Conference, and respectfully show this Honorable Court the following:

1. On January 23, 2010, the M/V EAGLE OTOME allided with the M/V GULL ARROW and thereafter collided with a barge being pushed by the M/V DIXIE VENGEANCE while travelling the Sabine-Neches Canal in Port Arthur.¹ The collision resulted in thousands of gallons of oil being spilled.

¹ ECF Doc. No. 2585, Claim and Answer of Kirby, 1 – 2.

2. On January 29, 2010, AET Inc. brought this Limitation Proceeding, seeking to exonerate or limit their liability for any damages caused by the collision and resulting spill (AET action).² Shortly thereafter, notice was given to the community around the Sabine-Neches Waterway, to file a claim, if appropriate, at the Jack Brooks Federal Courthouse in Beaumont, Texas by April 6, 2010.³

3. On April 22, 2010, this Court Sua Sponte, stayed all further proceedings in order to bring the docket up to date with the huge number of claimants.⁴

4. On July 22, 2010, Kirby Inland Marine, LP, filed its Limitation Proceeding, seeking to exonerate or limit its liability for any damages caused when the M/V EAGLE OTOME collided with the M/V DIXIE VENGEANCE.⁵ (Kirby action) This proceeding was brought separately from the Limitation Proceeding brought by AET Inc.

5. On December 23, 2010, a joint motion to set a scheduling conference was filed in the Kirby Limitation Proceeding. All of the parties in the Kirby action, with the exception of AET, requested that the Court set the Kirby matter for a scheduling conference which would then allow the parties to begin discovery.

6. The Court did set a conference six months later, in June 2011, but did not hold a scheduling conference, instead inviting briefing on the consolidation of the Kirby and AET matters, and subsequently consolidated the matters on March 15, 2012.

² ECF Doc. 1, Verified Complaint for Exoneration from or Limitation of Liability.

³ ECF Doc. 3, Order Approving Limitation Plaintiffs' Security.

⁴ ECF Doc. No. 3228, Order Issuing Stay of Case.

⁵ Kirby Inland Marine, LP, Limitation Proceeding, ECF Doc. 1 Complaint and Petition for Exoneration from or Limitation of Liability.

7. On March 21, 2011, this Court issued a *Lone Pine* Order in the AET action requiring all claimants establish *prima facie* basis for their claims via expert affidavits linking the cause of their alleged injuries to the event in question.⁶ The order gave a deadline of June 24, 2011 for the claimants to comply, and a deadline of October 28, 2011 for AET to challenge the sufficiency of any submissions.⁷ Objections to this order were overruled by the Court on December 14, 2011.⁸ The Court ruled on the Lone Pine Order submissions, on February 4, 2013, dismissing 17,294 claims.⁹

8. Because the Lone Pine Order submissions have been addressed, Kirby, joined by Bobby Frank, Bonetta Faye Frank, Courtney Charles, Der' Nesha Graham, Drucella Charles, Edward Frank, Gloria Frank, Jermaine Jacobson, Joshua Charles, Katrina M. Frank, Lena R. Johnson, Maia Antoine, Marolean Levine, Patrick Charles, Quiona Levine, Rosetta Lewis, Warolean Levine, Amarriea Flanagan, Amarion Gauthier, Jacorey Mitchell, Kiristen Ardoin, Kyron Eaglin, Erian Grahman, Da'Vonte Jackson, Riyad Antoine, Makayla Williams, Kyran Eaglin, and A'riyah Acron, CLAIMANTS hereby re-urges the previously filed Motion for Scheduling Conference, and requests that this Court set same for hearing.

WHEREFORE, PREMISES CONSIDERED, Claimant/Petitioner Kirby Inland Marine, LP, joined by Bobby Frank, Bonetta Faye Frank, Courtney Charles, Der' Nesha Graham, Drucella Charles, Edward Frank, Gloria Frank, Jermaine Jacobson, Joshua Charles, Katrina M. Frank, Lena R. Johnson, Maia Antoine, Marolean Levine, Patrick Charles, Quiona Levine, Rosetta Lewis, Warolean Levine, Amarriea Flanagan, Amarion Gauthier, Jacorey Mitchell, Kiristen Ardoin, Kyron Eaglin, Erian Grahman, Da'Vonte Jackson, Riyad Antoine, Makayla

⁶ ECF Doc. No. 3387, *Lone Pine* Order.

⁷ *Id.* at 7 – 8.

⁸ ECF Doc. No. 3475, Executed Order Overruling Objections to *Lone Pine* Order.

⁹ ECF Doc. No. 3514, Order Dismissing Claims.

Williams, Kyran Eaglin, and A'riyah Acron, CLAIMANTS respectfully moves this Court to set an immediate scheduling conference in this case.

Respectfully Submitted,

STEPP & SULLIVAN, P.C.

/s/ Jad J. Stepp

Jad J. Stepp
State Bar No. 19169100
Dennis J. Sullivan
State Bar No. 19473750
1010 Lamar Street, Suite 810
Houston, Texas 77002
Telephone: (713) 336-7200
Facsimile: (713) 336-7205
ATTORNEYS FOR
KIRBY INLAND MARINE, L.P.

And

LAW OFFICE OF REGINALD E.
MCKAMIE SR., PC

/s/ Reginald E. McKamie Sr.

Reginald E. McKamie, Sr.
TBN: 13686750
1210 Antoine Drive
Houston, Texas 77055
Telephone: (713) 465-2889
(713) 465-2894 (fax)
reginaldmckamie@gmail.com

CERTIFICATE OF CONFERENCE

I, the undersigned, as counsel for Kirby Inland Marine, LP hereby verify that I have conferred with David James, counsel for AET, in a reasonable effort to resolve this matter without the necessity of court intervention, and that such efforts have been unsuccessful, and AET is opposed to this Motion due to their argument that there are pending motions pertaining to the Lone Pine Order.

/s/ Jad J. Stepp
Jad J. Stepp

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am a member of Stepp & Sullivan, P.C., and that a true and correct copy of forgoing document was served on counsel of record via ECF on the 13th day of February 2013.

/s/ Jad J. Stepp
Jad J. Stepp